

APPEAL NO. 023185
FILED JANUARY 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 13, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that the claimed injury does not extend to include injuries to the claimant's low back and right ankle; that the claimant failed to timely notify the employer of an injury pursuant to Section 409.001; and that the claimant did not have disability.

The claimant appealed, contending that the hearing officer's decision is against the great weight and preponderance of the evidence. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant, a machine operator, testified that on _____, her right foot became tangled in a hose and she tripped and fell. The claimant first saw a doctor on June 8, 2001, and she eventually had right knee surgery for a torn meniscus on July 23, 2001. Although it appears that there was some sort of incident in (month and year of injury), there was conflicting evidence whether that incident caused an injury as defined in Section 401.011(26), whether the claimant's condition may have preexisted the _____, alleged injury date, and when the claimant gave notice of the alleged injury to the employer. The hearing officer, in his Statement of the Evidence, commented that the claimant "was neither credible nor persuasive."

The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Terri Kay Oliver
Appeals Judge